

Notice of Allowability**Application No.**

09/400,568

Applicant(s)

FLOYD ET AL.

Examiner

William K Cheung

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment After Final.
2. ☒ The allowed claim(s) is/are 21, 23-26 and 28-30.
3. ☒ The drawings filed on 21 September 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

1. In view of amendment filed January 9, 2004, claims 1-20, 22, 27, 31-38 have been cancelled. Claims 21, 23-26, 28-30 are pending.
2. In view of amendment filed January 9, 2004, the rejection of claims 21-26, 28, 29, 31-38 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Welborn et al. (WO 96/00246) is withdrawn.

Allowances

3. Claims 21, 23-26, 28-30 are allowed.
4. The following is an examiner's statement of reasons for allowance:

As of the date of this office action, the examiner has not located or identified any reference that can be used singularly or in combination with another reference including the closest prior art of Welborn et al. (WO 96/00246) to render the present invention anticipated or obvious to one of ordinary skill in the art.

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The invention of Claims 21, 23-26, 28-30 relates to an ethylene copolymer having;

- a) a MIR of from 15 to 35;*
- b) a MWD of from 2 to 15;*
- c) a CDBI of ≥ 60 ;*
- d) a melt strength ≥ 25.5 cN;*
- e) a melt index of from 0.2 to 10 dg/min; and*
- i) one or more C₃ to C₈ alpha-olefin comonomers-present at from 0.89 to 1.97 mol%.*

The closest prior art Welborn (page 11, line 29 to page 12, line 11) in a working example discloses that the preferred inventive polymer of Welborn et al. is an ethylene/1-hexene copolymer. In the broad disclosure, Welborn et al. (page 8, line 14-32) further disclose a series of olefinic comonomers monomers for preparing an ethylene homopolymer or an ethylene copolymer. Regarding properties, Welborn et al. (Page 9, line 26 to page 10, line 15) disclose that the ethylene homopolymers or copolymers have a melt index ranges from about 0.01 to 5 dg/min, a MWD ranges from about 1.5 to about greater than 20, a density range from 0.87 to about 0.97 g/cc, and a MIR preferably in the range from about 14 to about 45. However, Welborn et al. are silent on an ethylene copolymer comprising a comonomer at a concentration ranges from 0.89 to 1.97 mole %. Therefore, it would not be apparent to one of ordinary skill in art to use the ethylene copolymer teachings in Welborn et al. to obtain an ethylene

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based copolymers having the claimed CDBI, APS, and the melt strength which are being claimed in claims 21, 23-26, 28-30. The invention of claims 21, 23-26, 28-30 is allowed.

In light of the above discussion, it is evident as to why the present claims are patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, and to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5885.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1300.

A handwritten signature in black ink, appearing to read 'William K. Cheung', with a long horizontal flourish extending to the right.

William K. Cheung

Patent Examiner

January 21, 2004